

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION

NOV 09 2006

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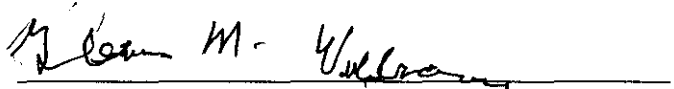
ROSCO FOLENO, JR.,)	<u>FINAL JUDGEMENT AND ORDER</u>
)	
Plaintiff,)	Civil Action No. 2:06cv00039
)	
v.)	
)	
NORFOLK SOUTHERN)	By: GLEN M. WILLIAMS
RAILWAY COMPANY,)	Senior United States District Judge
)	
Defendant.)	

This case is before the court on the defendant's Motion to Dismiss for the failure of the plaintiff to state a claim upon which relief can be granted pursuant to Federal Rule of Civil Procedure 12(b)(6), (Docket Item No. 3), ("Motion"). The case was referred to the Honorable Pamela Meade Sargent, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge submitted a report and recommended disposition of this case recommending that the Motion be granted, (Docket Item No. 13). No objections to this report and recommendation were filed, and the court, upon a review of the record, is of the opinion that the Magistrate Judge's report should be affirmed.

Thus, for the reasons detailed in the Magistrate Judge's report and recommendation, the defendant's Motion is hereby **GRANTED**. Judgment for the defendant is hereby entered.

The Clerk is directed to enter this Order and to send copies of this Order to all counsel of record. The Clerk is further directed that this case is to be closed and stricken from the docket.

ENTER: This 9th day of November, 2006.



THE HONORABLE GLEN M. WILLIAMS
SENIOR UNITED STATES DISTRICT JUDGE